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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/646,213	05/07/96	AFANASENKO	N AFANASENKO

FRANK PIETRANTONIO  
KENYON & KENYON  
1500 K. STREET NW STE. 700  
WASHINGTON DC 20005

QM12/0107

EXAMINER

DONNELLY, J

ART UNIT

PAPER NUMBER

3764

DATE MAILED:

01/07/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

08/646213

Applicant(s)

Afana Seko

Examiner

J. Donnelly

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 11-4-94
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 14-30 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☐ Claim(s) is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☒ Claim(s) 14-30 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

JEROME W. DONNELLY  
PRIMARY EXAMINER

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bradstreet in view of Romney.

In regard to claims 14-19 Bradstreet teaches a device comprising supports including waist support 3, shoulder, supports 7, hand supports 13, elbow supports 12, knee supports 22 and foot supports (D) and elastic tie-members 4, 5, 8, 11, 14, 20, 21, 23 and 27 arranged in "antagonistic pairs", capable of acting independently as claimed and connected to at least two supports (Figures 1, 2, page 1 lines 8-34 and page 2 lines 69-79). Bradstreet teaches a device that develops "practically every muscle of the body" wherein the elastic members are located anteriorly and posteriorly on the trunk and limbs (page 1, lines 12-14). Furthermore, Bradstreet teaches a plurality of means (A) for adjusting the tension (Figure 6 and page 1 lines 74-81). Bradstreet discloses the claimed invention except for the position of the adjusting means. Romney teaches that it known to provide such as adjusting means 70-73, 130, 131 located between the elastic tie-member and the supports (Figures 5, 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include such an adjusting means, as taught by Romney, in order to provide a convenient means for adjusting the

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elastic members from the support at the time the invention was made to include such an adjusting means, as taught by Romney, in order to provide a convenient means for adjusting the elastic members from the support.

In regard to claim 15, Romney teaches the adjusting means including bands (i.e. releasable anchoring ends 31, 33) and a lock 30, 32 (column 6 line 65 to column line 7 nd column 7 line 66 to column 8 line 17).

The examiner considers the methods disclosed within claims 14-19 as inherent and obvious when using the device of Broadstreet modified by Romney in view of combined teachings. See Romney column 2, lines 27-32 and column 3, line 38-50.

Applicant's election with traverse of 1) c;ao14-19 (method) 2) the search would be the same for all inventions 3) the identical search required for all the inventive species would not be required for the method claims and this method is considered to be patentably distinct from the apparatus claims in Paper No. Is acknowledged. The traversal is on the ground(s) that. This is not found persuasive because.

The requirement is still deemed proper and is therefore made FINAL.

The application having been allowed, formal drawings are required in response to this Office action.

In regard to claim 15, Romney teaches the adjusting means including bands (i.e. releasable anchoring ends 31, 33) and a lock 30, 32 (column 6 line 65 to column 7 line 7 and column 7 line 66 to column 8 line 17).

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The examiners considers the methods discloses within claims 14-19 as inherent and obvious when using the device of Bradstreet modified by Romney in view of combined teachings. See Romney column 2, lines 27-32 and column 3, lines 38-50.

Applicant's election with traverse of 1) claims 14-19 (methods) in Paper No. 36 is acknowledged. The traversal is on the ground(s) that the search would be the same for all inventions. This is not found persuasive because the identical search required for all of the inventive species would not be required for the method claims and this method is considered to be patentably distinct from the apparatus claims..

The requirement is still deemed proper and is therefore made FINAL.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (703) 308-2668.

Jerome Donnelly:bhw  
May 25, 2000

JEROME W. DONNELLY  
PRIMARY EXAMINER  
JEROME W. DONNELLY  
PRIMARY EXAMINER

